

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on March 25, 2003 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Jim Keane, Vice Chairman (D)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Rep. Bob Bergren (D)  
Rep. Rod Bitney (R)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Ray Hawk (R)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Gary Matthews (D)  
Rep. Scott Mendenhall (R)  
Rep. Penny Morgan (R)  
Rep. Allen Rome (R)  
Rep. Sandy Weiss (D)  
Rep. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Alberta Strachan, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 101 (2/18/03); SB 232 (2/18/03;  
SB 431 (2/18/03); SB 306 (2/18/03

**HEARING ON SB 101****Sponsor:** SEN. DALE MAHLUM, SD 35, Missoula**Opening Statement by Sponsor:**

**SEN. MAHLUM** said that this bill allows the Montana Heritage Preservation and Development Commission to use the services of volunteers. It requires workers' compensation coverage for the volunteers and authorizes reimbursement of certain expenses to the volunteers. It authorizes the Commission to sell real and personal property, establish trust funds, obtain federal money and requires the deposit of the federal money into the Montana Heritage Preservation and Development account. It requires the Commission to establish a subcommittee of Commission members and members of the Montana Historical Society Board and requires a majority vote of the subcommittee prior to selling personal property from the Bovey assets. It requires that funds received from the sale of personal property from the Bovey assets be deposited in a trust fund, and transfers title of the Bovey assets to the State of Montana.

***{Tape: 1; Side: A; Approx. Time Counter: 49 - 156}***

**Proponents' Testimony:**

**Jeff Teaberry, Executive Director, Heritage Commission**, provided a slide show on Virginia City. He also provided testimony on the Volunteers in Virginia City; Interpretation and Education in Virginia City; a copy of the Virginia City Herald; and printed testimony.

**EXHIBIT (buh63a01)**

**EXHIBIT (buh63a02)**

**EXHIBIT (buh63a03)**

**EXHIBIT (buh63a04)**

***{Tape: 1; Side: A; Approx. Time Counter: 156 - 464}***

**REP. DEE BROWN, HD 83, Hungry Horse**, said she recognized the Heritage Commission as a group of people who work hard and should have the flexibility to allow the sale of some of the extra things in Virginia City and Nevada City. According to the latest audit, only 4,000 of the artifacts have actually been cataloged. There is an estimated one million pieces in the collection. The Commission needs that flexibility to sell off some of the extra properties. The volunteers at both places need workers' compensation coverage. She also supplied another copy of the Volunteers in Virginia City.

**EXHIBIT (buh63a05)**

***{Tape: 1; Side: A; Approx. Time Counter: 464 - 515}***

**Mary Oliver, Operational Officer, First Madison Valley Bank; Virginia City Preservation Alliance Committee; Steering Committee, Montana History Foundation; Commissioner, Montana Heritage Commission,** said that collectively the provisions of this bill allow for good business decisions. This bill allows the Montana Heritage Commission to make better historical and economic sense of the Virginia City and Nevada City property owned by the people of the State of Montana.

**{Tape: 1; Side: B; Approx. Time Counter: 1 - 14}**

**REP. DIANE RICE, HD 33, Harrison,** said she was a member of the Montana Heritage Commission. She said she supported this bill. The proponents of this bill are testifying from their hearts. They love this area.

**{Tape: 1; Side: B; Approx. Time Counter: 14 - 28}**

**Pat Keim, Montana Heritage Commission,** said this bill clarifies certain lines of authority. More realistic goals will be able to be set. They will better serve the public. The Commission needs the authority to rationalize the circumstances.

**{Tape: 1; Side: B; Approx. Time Counter: 28 - 42}**

**Mark Simonich, Director, Department of Commerce,** said he was also a member of the Heritage Commission. The Commission put together a subcommittee of members that met with the Governor earlier this winter to discuss each one of these proposals. The Governor stands in full support of this legislation. It clarifies the authority of the Commission to carry out the work that it needs to do.

**{Tape: 1; Side: B; Approx. Time Counter: 42 - 51}**

**Paula Craver, Owner, The Roadmaster Grille, Virginia City,** provided written testimony.

**EXHIBIT (buh63a06)**

**{Tape: 1; Side: B; Approx. Time Counter: 51 - 118}**

**Jerry Fox, Former Clerk/Treasurer, Virginia City,** said the current situation is much like the State giving a child to foster parents and saying, "Take care of this child with one hand tied behind your back." He encouraged letting the Montana Heritage Commission have the tools needed to effectively manage the properties.

**{Tape: 1; Side: B; Approx. Time Counter: 118 - 132}**

**John Benedict, Virginia City resident,** said he has been in business in Virginia City for 30 years as a building contractor.

This bill gives the Montana Heritage Commission the authority and means they need to do their jobs properly.

**{Tape: 1; Side: B; Approx. Time Counter: 132 - 143}**

**Bill Howell, West Yellowstone resident**, said the Commission was created because of some complexities. After five years, the management oversight continues to remain very complex. He supports this bill so the assets may belong to the State of Montana and so the Heritage Commission may give consideration to the disposal of duplicate artifacts and items that don't match the mission of the historic cities. It is their intent to place these proceeds into a trust to further benefit the Commission. It is not the intent of the Commission to plunder the assets of Virginia City and Nevada City. He said everyone on the Commission is dedicated to doing what is necessary to preserve this very important part of Montana.

**{Tape: 1; Side: B; Approx. Time Counter: 143 - 175}**

**John Boles, Concessionaire, Nevada City**, said this is a unique situation that the Heritage Commission has been able to garner hundreds and hundreds of hours of free volunteer labor from people who are willing to spend their own time and money to come and do these jobs. It is only fair that workers' compensation be available to these workers.

**{Tape: 1; Side: B; Approx. Time Counter: 175 - 195}**

**Opponents' Testimony:**

**Arnie Olson, Director, Montana Historical Society**, provided written testimony and a copy of The Management of Montana History.

**EXHIBIT (buh63a07)**

**EXHIBIT (buh63a08)**

**{Tape: 1; Side: B; Approx. Time Counter: 195 - 242}**

**Bob Morgan, Board of Trustees, Montana Historical Society**, said he has watched as countless Montanans have gleaned their family histories from the finest archives in the west. The Montana Historical Society is the biggest bang for your buck. There have been rumors the Society wanted to dump Virginia City and Nevada City and this is simply not true in any respect. It was always the wish of the Boveys and the Society that these two artifacts would be preserved.

**{Tape: 1; Side: B; Approx. Time Counter: 201 - 339}**

**Shirley Groff, Board of Trustees, Montana Historical Society**, said she loved Virginia City and Nevada City because they

represent the American west which is rapidly disappearing. She said as a volunteer, she sees the real needs of volunteers.

**{Tape: 1; Side: B; Approx. Time Counter: 339 - 385}**

**Chere Jiusto, Executive Director, Montana Preservation Alliance,** said she had observed the dynamics of the Heritage Commission and the Historical Society trying to work out the administration of these heritage resources for several years. It is a very complicated and conflicted beast to manage Virginia City. On one hand there is mandate to make money and be self-supporting and on the other hand there are ethical responsibilities to conserve fragile artifacts, to preserve teetering buildings, to secure the heritage for future generations.

**{Tape: 1; Side: B; Approx. Time Counter: 385 - 467}**

**Bill Holt, Senior Trustee, Historical Society,** said he was afraid that in the future, Montana may not receive additional federal grants for use at Virginia City and Nevada City if the Montana Historical Society did not remain the administrator.

**{Tape: 1; Side: B; Approx. Time Counter: 467 - Tape: 2; Side: A; Approx. Time Counter 12}**

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

Questions will be answered at the end of hearings for SB 101, 232 and 431.

**Closing by Sponsor:**

The Sponsor closed.

**{Tape: 1; Side: B; Approx. Time Counter: 28 - 80}**

**HEARING ON SB 232**

**Sponsor:** SEN. DALE MAHLUM, SD 35, Missoula

**Opening Statement by Sponsor:**

**SEN. MAHLUM** said this bill transfers the Montana Heritage Preservation and Development Commission to the Department of Commerce for administrative purposes. It also allows negotiations for an indirect administrative rate.

**{Tape: 1; Side: B; Approx. Time Counter: 85 - 138}**

**Proponents' Testimony:**

**Jeff Teaberry, Executive Director, Montana Heritage Commission,** provided written testimony.

**EXHIBIT (buh63a09)**

***{Tape: 1; Side: B; Approx. Time Counter: 138 - 180}***

**Mark Weber, Virginia City Preservation Alliance and Montana Heritage Commission,** said this was the best thing that could happen to Montana. They developed a positive presence with citizens and the businesses in Virginia City. Business has increased 8% per year because of the Commission.

***{Tape: 1; Side: B; Approx. Time Counter: 180 - 223}***

**Mark Simonich, Director, Department of Commerce,** said he had participated in the discussions about the future of the Commission. This bill does not give the Department of Commerce any substantive authority over the management actions having to do with Virginia City or Nevada City or any of the other artifacts or properties. The Commission is in control. It is strictly for administrative purposes to be able to continue the government side of what they have to do; carrying out all of what they have to do, personnel policies, bookkeeping and budgeting. Hiring of additional staff will not be necessary to carry on this project.

***{Tape: 1; Side: B; Approx. Time Counter: 223 - 263}***

**Luke Banks, Twin Bridges student,** said Virginia City is a big tourist attraction and provides many jobs for the local people. The artifacts have been in good shape since the Montana Heritage Commission took over.

***{Tape: 1; Side: B; Approx. Time Counter: 263 - 276}***

**Adie Franklin, Twin Bridges student,** said her father is a weaver and would be doing art work in Virginia City this summer. She said the Montana Heritage Commission has done a good job with preserving history.

***{Tape: 1; Side: B; Approx. Time Counter: 276 - 286}***

**Bill Howell, West Yellowstone resident,** said he endorses what everyone else has said.

***{Tape: 1; Side: B; Approx. Time Counter: 286 - 291}***

**Mary Oliver, Commissioner, Montana Heritage Commission,** said with the Heritage Commission having recently been awarded approximately \$1.8 million in federal appropriations and grants, their accounting demands will become even more complicated and will result in thousands of additional transactions over the

course of years. This bill is simple, straight forward and is a good business decision.

***{Tape: 1; Side: B; Approx. Time Counter: 291 - 302}***

**John Ellingson, Curator, Montana Heritage Commission**, said he had been curator since 1972 for the Heritage Commission. This bill does not change the role of the Montana Historical Society except under the administration section. They have saved Virginia City and Nevada City and the artifacts thereof for the future generations and that is the most important factor no matter which of these bills get passed.

***{Tape: 1; Side: B; Approx. Time Counter: 302 - 323}***

**John Boles, Virginia City resident and restaurant owner**, said this is a simple bill. Staff of the Historical Society is not able to do the job of administration. They have done a good job. It just means they need more assistance.

***{Tape: 1; Side: B; Approx. Time Counter: 323 - 335}***

**Pat Keim, Burlington Northern Railroad and Montana Heritage Commission**, said he supports this bill.

***{Tape: 1; Side: B; Approx. Time Counter: 335 - 340}***

**Opponents' Testimony:**

**REP. DEE BROWN, HD 83, Hungry Horse**, supplied a copy of the performance audit compiled by the Legislative Audit Division, Virginia and Nevada City Historic Site Management.

**EXHIBIT (buh63a10)**

***{Tape: 1; Side: B; Approx. Time Counter: 340 - 482}***

**Arnie Olson, Director, Montana Historical Society**, said they oppose SB 232 because it does not accomplish anything that cannot already be done under the current situation. The overhead needs to be adjusted to something more typical as opposed to the low rate they have been charging. One of the things they faced with their accounting program is the implementation of the state's saver system which has caused many agencies many problems. This bill represents change at a time when the audit should be worked on to adjust to new funding and generally trying harder to make things work. The Society was the lead agency in getting Virginia City and Nevada City purchased in the first place, and helped in getting this project where it is today in many ways other than the administration. They need more partners in this effort and not less. They would like to see a banding of people in both federal and state agencies who all bring to the table the strengths of that particular agency. Enough has not been done on both sides to make this work. Montana History Foundation has raised over \$2 million for them including the earnest money to

hold the property and the \$1 million dollars for the building that is down there now. The Department of Commerce can provide advice and marketing expertise without an administrative attachment.

**{Tape: 1; Side: B; Approx. Time Counter: 482 - Tape: 2; Side A: Approx. Time Counter: 18}**

**Chere Jiusto, Montana Preservation Alliance**, said she would disagree with the Sponsor and Proponents on the question of whether Virginia City is a business. She said it was not a business. The State did not buy Virginia City to have a state-run business there. They purchased Virginia City to save a tremendous heritage resource. While three bills and two directions have been put on the table, there is a third option. She said things should be kept where they are and to look for the answers and solutions that can inform the discussion and lead to far better management.

**{Tape: 2; Side: A; Approx. Time Counter: 18 - 80}**

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

Questions will be answered at the end of the hearings on SB 101, 232 and 431.

**Closing by Sponsor:**

The Sponsor closed.

**{Tape: 2; Side: A; Approx. Time Counter: 85 - 119}**

**HEARING ON SB 431**

**Sponsor:** SEN. JIM ELLIOTT, SD 36, Trout Creek

**Opening Statement by Sponsor:**

**SEN. ELLIOTT** said this bill transferred the functions and funding of the Montana Heritage Preservation and Development Commission to the Department of Fish, Wildlife, and Parks and provided that the Commission shall function as an advisory council attached to the Department. It revises the membership and terms of the Advisory Council and transfers title of the "Bovey Assets" from the Montana Historical Society to the State of Montana. It makes permanent the allocation of certain proceeds of the lodging facility-use tax to the Montana Heritage Preservation and Development account.

**{Tape: 2; Side: A; Approx. Time Counter: 119 - 440}**



**Proponents' Testimony:**

**REP. DEE BROWN, HD 83, Hungry Horse**, said if the oversight is transferred to any department, Parks is a better fit than the Department of Commerce. She also said all of the bills should be trashed and let the Montana Heritage Commission and the Montana Historical Society come up with some solutions.

**{Tape: 2; Side: A; Approx. Time Counter: 440 - 460}**

**Janet Sperry, Helena resident**, provided written testimony.

**EXHIBIT(buh63a11)**

**{Tape: 2; Side: A; Approx. Time Counter: 460 - Tape: 2; Side: B; Approx. Time Counter: 11}**

**Opponents' Testimony:**

**Arnie Olson, Director, Montana Historical Society**, said they had supported this bill in the Senate because it was presented as a choice between the Department of Commerce and the Department of Fish, Wildlife and Parks. Because of the experience of the Department of Fish, Wildlife and Parks, they support it as well because it was so closely tied to the Legislative Audit Division. They felt many of the recommendations needing to be addressed are worked out in some way. The recommendations came out late in the session, just before transmittal, and now with the study of the impacts, they feel this is too much too fast. This bill should be set aside for now as it separates the Society from Virginia and Nevada City projects.

**{Tape: 3; Side: A; Approx. Time Counter: 11 - 45}**

**Jeff Teaberry, Montana Heritage Commission**, presented written testimony.

**EXHIBIT(buh63a12)**

**{Tape: 3; Side: A; Approx. Time Counter: 45 - 109}**

**Jerry Fox, Former Clerk/Treasurer, Town of Virginia City**, said he opposed this bill.

**{Tape: 3; Side: A; Approx. Time Counter: 109 - 160}**

**Mark Weber, Virginia City Preservation Alliance**, said he opposes this bill.

**{Tape: 3; Side: A; Approx. Time Counter: 160 - 165}**

**Pat Keim, Montana Heritage Commission**, said this Commission needs to be preserved. He said the association with the Department of Fish, Wildlife and Parks would solve the problem. One of the

conditions is that the Heritage Commission would only be an advisory commission.

***{Tape: 3; Side: A; Approx. Time Counter: 165 - 236}***

**Sherry Jarvis, resident of Virginia City**, said she was concerned about the recommendation to move the resources to the management authority to the Department of Fish, Wildlife and Parks. No plan at all has been presented by the Department that would illustrate how they propose to maintain the delicate relationship between the Organization and the community. It is the residents and businesses that concerns her the most. This proposal is being considered without much input from the residents of Virginia City. Of the 150 people who are the most substantively impacted by these decisions, less than ten residents are participating in this discussion.

***{Tape: 3; Side: A; Approx. Time Counter: 236 - 266}***

**Chere Jiusto, Montana Preservation Alliance**, presented written testimony.

**EXHIBIT (buh63a13)** ***{Tape: 3; Side: A; Approx. Time Counter: 266 - 308}***

**Mark Simonich, Director, Department of Commerce**, said he was also testifying with the Governor's Office in opposition to this bill. While it has been suggested the Department of Fish, Wildlife and Parks is a better host of Nevada City, the resources are in the Parks Department of the Department. He suggested the recent report of Parks Future II Committee be reviewed. There is a great shortage of both financial resources and staff resources to manage existing park resources. There is no benefit in merging them together. Each Department deserves the strength of the Commission and the body that is overseeing the respective areas.

***{Tape: 3; Side: A; Approx. Time Counter: 308 - 328}***

**Bill Howell**, provided written testimony.

**EXHIBIT (buh63a14)**

***{Tape: 3; Side: A; Approx. Time Counter: 328 - 336}***

**John D. Ellingson, Virginia City resident**, supports this bill.

***{Tape: 3; Side: A; Approx. Time Counter: 336 - 337}***

**Mary Oliver, Ennis resident**, presented written testimony.

**EXHIBIT (buh63a15)**

***{Tape: 3; Side: A; Approx. Time Counter: 339 - 342}***

**Jeffrey Safford, Montana Heritage Commission**, said he supports the bill.

***{Tape: 3; Side: A; Approx. Time Counter: 342 - 349}***

**Steve Ellis, Ennis resident,** supports this bill.

**{Tape: 3; Side: A; Approx. Time Counter: 349 - 358}**

**Informational Testimony:**

**Colin Matthews, President, Town Council of Virginia City,** said he was available for questions.

**{Tape: 3; Side: A; Approx. Time Counter: 358 - 395}**

**Jeff Hegener, Director, Department of Fish, Wildlife and Parks,** said he was available for questions.

**{Tape: 3; Side: A; Approx. Time Counter: 395 - 411}**

**Angie Grove,** didn't indicate who she represented.

**{Tape: 3; Side: A; Approx. Time Counter: 411 - 433}**

**Questions from Committee Members and Responses:**

Questions that were answered in this section are from SB 101, 232 and 431.

**REP. BOOKOUT-REINICKE** asked Mr. Simonich about the 5% charge to work with the Montana Heritage Commission instead of the 15% charge. **Mr. Simonich** said this figure would need to be negotiated. There will not be additional FTE for this project.

**{Tape: 3; Side: A; Approx. Time Counter: 444 - 516}**

**REP. GALLIK** asked Ms. Grove about a performance audit and if there has been enough staff allocated to perform these duties. **Mr. Simonich** said no additional staff was needed.

**{Tape: 4; Side: A; Approx. Time Counter: 1 - 76}**

**{Tape: 3; Side: B; Approx. Time Counter: 1 - 500; Comments: Tape 3, Side B was not used. Begin with Tape 4, Side A.}**

**REP. MAEDJE** questioned Mr. Teaberry about the language in the bill in the title regarding the term "agreement." **Mr. Teaberry** indicated he did not know the answer to the question.

**{Tape: 4; Side: A; Approx. Time Counter: 76 - 146}**

**REP. WEISS** asked Mr. Teaberry about the new purchases for Virginia City. **Mr. Teaberry** said they would consult with the Montana Historical Society. **REP. WEISS** then asked Mr. Olson about the number of FTE there are in the Historical Society. **Mr. Olson** said there were 56 FTEs and about 100 volunteers.

**{Tape: 4; Side: A; Approx. Time Counter: 146 - 212}**

**REP. KEANE** questioned the staff requirements. **Ms. Oliver** said there would be staff requirements but she didn't know at what rate of pay.

**{Tape: 4; Side: A; Approx. Time Counter: 497 - 515}**

**Closing by Sponsor:**

The sponsor closed for SB 431.

**{Tape: 4; Side: B; Approx. Time Counter: 1 - 62}**

**HEARING ON SB 306**

**Sponsor:** SEN. DON RYAN, SD 22, Great Falls

**Opening Statement by Sponsor:**

**SEN. RYAN** said this bill creates the Uniform Athlete Agents Act which provided for definitions, service of process, registration of athlete agents, and civil and criminal penalties; the requirement of a payment of \$200 biennial registration or renewal fee. It establishes contract criteria for athlete agents and student athletes. It also provides for notice to the student-athlete's educational institution of a contract between a student-athlete and an athlete agent and gave the student-athletes the right to cancel the contract with an athlete agent.

**{Tape: 4; Side: B; Approx. Time Counter: 62 - 110}**

**Proponents' Testimony:**

**Bill Johnston, Montana University System,** said they supported this bill.

**{Tape: 4; Side: B; Approx. Time Counter: 110 - 136}**

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MAEDJE** asked Mr. Johnston about cancellation of a contract. **Mr. Johnston** said this bill would protect the athlete.

**{Tape: 4; Side: B; Approx. Time Counter: 160 - 178}**

**Mr. Campbell** questioned some of the items in the bill.

**Closing by Sponsor:**

The Sponsor closed.

***{Tape: 4; Side: B; Approx. Time Counter: 178 - 247}***

**ADJOURNMENT**

Adjournment: 12:00 A.M.

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REP. JOE MCKENNEY, Chairman

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ALBERTA STRACHAN, Secretary

JM/AS

**EXHIBIT** (buh63aad)